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**Attorneys for BNSF Railway Company**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

<b>KEITH JONES,</b>	) <b>Cause No. CV-18-146- DLC</b>
	)
<b>Plaintiff,</b>	)
	) <b>BNSF’S MOTION FOR</b>
<b>vs.</b>	) <b>PROTECTIVE ORDER</b>
	) <b>REGARDING PMP AND ICP</b>
<b>BNSF RAILWAY COMPANY,</b>	) <b>RELATED DOCUMENTS</b>
<b>a Delaware corporation,</b>	)
	)
<b>Defendant.</b>	)
	)

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COMES NOW, Defendant BNSF Railway Company (“BNSF”), by and through its undersigned counsel of record, and pursuant to Rule 26(c)(1), Fed. R. Civ. P. and D. Mont. L. R. 26.4, respectfully moves the Court for a protective order which designates certain documents related to BNSF’s Performance Management Process (“PMP”) and Incentive Compensation Plan (“ICP”) as private, confidential and/or proprietary in nature and not subject to dissemination outside of these proceedings to the public at large. Plaintiff should be ordered to fulfill his non-disclosure obligations set forth in the parties’ Joint Stipulation for Protective Order entered into in June of 2019.

BNSF certifies that pursuant to Rule 26(c)(1), Fed. R. Civ. P., it has conferred with counsel for Plaintiff in good faith in an effort to resolve this dispute without Court action, and that such efforts have been unsuccessful. Pursuant to Paragraph 12 of this Court’s Scheduling Order of February 4, 2019 (Doc 19), BNSF certifies that the aforementioned Stipulated Protective Order is insufficient to protect BNSF’s interests because Plaintiff has challenged confidentiality designations thereunder. Finally, BNSF certifies pursuant to D. Mont. L.R. 7.1(c)(1) that it has contacted counsel for Plaintiff and he objects to this motion.

DATED this 6<sup>th</sup> day of November, 2019.

HEDGER FRIEND, P.L.L.C.

By: /s/ Michelle T. Friend  
Attorney for BNSF Railway Company

**CERTIFICATE OF SERVICE**

I, the undersigned, a representative of the law firm of Hedger Friend, P.L.L.C., hereby certify that I served a true and complete copy of the foregoing BNSF'S MOTION FOR PROTECTIVE ORDER REGARDING PMP AND ICP RELATED DOCUMENTS on the following persons by the following means:

1,2 CM/ECF  
\_\_\_\_\_ Hand Delivery  
\_\_\_\_\_ Mail  
\_\_\_\_\_ Overnight Delivery Service  
\_\_\_\_\_ Fax  
\_\_\_\_\_ E-Mail

1. Clerk, U.S. District Court
2. William G. Jungbauer  
John D. Magnuson  
Yaeger & Jungbauer Barristers, PLC  
4601 Weston Woods Way  
St. Paul, MN 55127

DATE: 11/06/2019

/s/ Michelle T. Friend